

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
HARRISONBURG DIVISION**

IN RE:

Case No. 15-50491

MONACA LARUE POOLE
RANDALL CARSON POOLE
Debtors

Chapter 13

DRRF II SPE LLC
Movant

v.
MONACA LARUE POOLE
RANDALL CARSON POOLE
Debtors/Respondents

and
HERBERT L BESKIN
Trustee/Respondent

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN

COMES NOW BSI Financial Services, as servicing agent for DRRF II SPE LLC (“Movant”), by and through counsel, Kyle Thomas Libby and The Hunoval Law Firm, PLLC, and objects to confirmation of the Debtor’s Second Amended Chapter 13 Plan filed in this case on July 27, 2015 (the “Plan”) on the following grounds:

1. On or about May 15, 2015, Monaca Larue Poole and and Randall Carson Poole (the “Debtors”) filed a voluntary petition for relief in this Court under Chapter 13 of the United States Bankruptcy Code.
2. Movant holds an allowed secured claim by virtue of a deed of trust (the “Deed of Trust”) which encumbers the parcel of real property known as 978 Old Charles Town Road, Berryville, VA 22611.
3. The Deed of Trust secures payment of a promissory note in the original principal amount of \$450,000.00 now payable to the Movant (the “Note”).
4. A Proof of Claim was filed by the Movant on July 24, 2015 as Claim 4-1, which lists arrearages as of the time the case was filed in the amount of \$103,099.12.
5. Paragraph 1 of the Plan proposes to fund the plan by paying the Trustee the sum of \$2,000.00 per month for 12 months; then \$4,065.00 per month for 48 months.

6. Paragraph 23(c) of Debtor's Schedule J lists a monthly net income of \$1,999.52.

7. Pursuant to 11 U.S.C §1325(6), the Debtors have not demonstrated an ability to make all the payments under the plan and to comply with the plan. There is no indication that the Debtors will be able to make the step up payments that will come due beginning on the 13th month of the Plan.

8. Pursuant to 11 U.S.C §1325(5)(A), the Movant does not accept the Plan.

WHEREFORE, Movant prays that this Court:

1. Deny confirmation of the Chapter 13 Plan; and
2. Grant such other and further relief as the Court deems necessary.

This is the 25th day of August, 2015.

The Hunoval Law Firm, PLLC

/s/ Kyle Thomas Libby
Kyle Thomas Libby, VSB#82346
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Attorney for Movant

CERTIFICATE OF SERVICE

The undersigned hereby certifies that true copies of the foregoing Objection were this day served upon the below named persons via the CM/ECF system or by first class mail, postage prepaid:

John Paul Goetz
75 West Lee Street, Suite 104
Warrenton, VA 20186

Monaca Larue Poole aka Lamonaca L. Poole
978 Old Charles Town Road
Berryville, VA 22611

Randall Carson Poole aka Randy C. Poole
978 Old Charles Town Road
Berryville, VA 22611

Herbert L Beskin
P.O. Box 2103
Charlottesville, VA 22902

USttrustee
Office of the United States Trustee
210 First Street, Suite 505
Roanoke, VA 24011

This is the 25th day of August, 2015.

The Hunoval Law Firm, PLLC

/s/ Kyle Thomas Libby
Kyle Thomas Libby